

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Crl.MC.No. 718 of 2007()

CRIME NO.58/07 OF KOYIPRAM POLICE STATION

PETITIONER: ACCUSED

N.S.HARIKUMAR, S/O.SREEDHARAN NAIR,
AGED 30 YEARS, RESIDING AT NAGATHIL HOUSE,
KANJEETTUKARA MURI, AYROOR VILLAGE, RANNY TALUK,
PATHANAMTHITTA.

BY ADV. SRI.P.GOPAKUMARAN NAIR
SRI.AJITH MURALI

RESPONDENTS: RESPONDENT

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
 2. THE CIRCLE INSPECTOR OF POLICE,
KOZHENCHERRY, PATHANAMTHITTA DISTRICT.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 718 of 2007

Dated this the 26th day of July, 2007

ORDER

The petitioner has come to this court complaining that the investigation conducted by the second respondent into a crime registered against him is unsatisfactory and the investigation may be entrusted to some senior police official.

2. A brief reference to crucial facts may be relevant. At 5 a.m. on 20.2.2007 the second respondent allegedly detected a mini lorry being loaded with sand. The petitioner herein was allegedly present in the said lorry on the driver seat. Crime No.58 of 2007 of Koyipram Police Station was registered after the second respondent reached the police station along with the petitioner. According to the second respondent, the load of sand in the vehicle was unloaded in the police station. The petitioner was interrogated. It was revealed that the petitioner was indulging in the culpable conduct of using one pass to transport many loads of sand. According to the second respondent, he thereafter went to the scene, where loads of sand illicitly removed were stacked. In the vehicle of the petitioner himself those loads of sands were attempted to be taken to the police

station. At that stage some persons had allegedly attempted to take photographs of such loading.

3. The petitioner has a different story to advance. According to him, his vehicle was not involved in any such illegal activity. The vehicle was seized unnecessarily. Later to make up a charge against the petitioner, the vehicle was brought and attempt was made to load the same in the presence of the police with sand. At that time persons who were available there smelling foul play had taken photographs of the attempt of the police to remove the sand in the petitioner's vehicle.

4. I have adverted to the rival contentions on the crucial aspect. I must say, at the moment and with the available materials I find absolutely no reason to sail to a conclusion that the investigation conducted is motivated or vitiated. However, I find merit in the submission that a senior police officer, who is not involved in the controversy, must continue and do the investigation in this case. Without expressing any opinion on the allegations and counter allegations raised, I am of the opinion that the Superintendent of Police, Pathanamthitta can be directed to entrust the investigation to a senior police official of the District not below the rank of a Dy.S.P. to be chosen by him. Necessary orders to that effect shall be

issued by the Superintendent of Police, Pathanamthitta within a period of 15 days from this date.

5. This Crl.M.C. is accordingly allowed to the above extent.

6. Hand order the order to the learned Prosecutor for communication to the Superintendent of Police, Pathanamthitta.

(R. BASANT)
Judge

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